

Title 5: ADMINISTRATIVE PROCEDURES AND SERVICES

Chapter 383: ECONOMIC AND COMMUNITY DEVELOPMENT

Article 2-B: MIDCOAST REGIONAL REDEVELOPMENT AUTHORITY

§13083-G. MIDCOAST REGIONAL REDEVELOPMENT AUTHORITY ESTABLISHED; GOALS

The Midcoast Regional Redevelopment Authority is established as a body corporate and politic and a public instrumentality of the State to carry out the purposes of this article. The authority is entrusted with acquiring and managing the properties within the geographic boundaries of Brunswick Naval Air Station. [2009, c. 641, §1 (AMD).]

The authority is established to facilitate the rapid development of the properties within the geographic boundaries of Brunswick Naval Air Station. In order to achieve this objective, the authority shall make every effort to: [2009, c. 641, §1 (NEW).]

1. Short-term goal. Recover civilian job losses in the primary impact community resulting from the base closure;

[2009, c. 641, §1 (NEW) .]

2. Intermediate goal. Recover economic losses and total job losses in the primary impact community resulting from the base closure; and

[2009, c. 641, §1 (NEW) .]

3. Long-term goal. Facilitate the maximum redevelopment of base properties.

[2009, c. 641, §1 (NEW) .]

SECTION HISTORY

2005, c. 599, §1 (NEW). 2009, c. 641, §1 (AMD).

§13083-H. DEFINITIONS

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [2005, c. 599, §1 (NEW).]

1. Authority. "Authority" means the Midcoast Regional Redevelopment Authority established in section 13083-G.

[2005, c. 599, §1 (NEW) .]

2. Base area. "Base area" means the area within the geographic boundaries of Brunswick Naval Air Station.

[2005, c. 599, §1 (NEW) .]

3. Bond. "Bond" means a bond or note or other evidence of indebtedness authorized under this article, whether issued under or pursuant to a bond resolution, trust indenture, loan or other security agreement.

[2005, c. 599, §1 (NEW) .]

4. Brunswick Naval Air Station. "Brunswick Naval Air Station" or "base" means those properties and facilities within the geographic boundaries of the United States Department of Defense naval air station at Brunswick existing on the effective date of this section. "Base" also includes other geographically separate property that the authority determines should be part of the base if the municipality in which the property is located has chosen not to accept the property and use it for other purposes.

[2005, c. 599, §1 (NEW) .]

5. Operating revenues. "Operating revenues" means funds available to the authority from fees, fares, rental or sale of property and miscellaneous revenue and interest not otherwise pledged or dedicated.

[2005, c. 599, §1 (NEW) .]

6. Primary impact community. "Primary impact community" means the municipalities of Bath, Bowdoin, Bowdoinham, Brunswick, Freeport, Harpswell, Lisbon Falls and Topsham and Androscoggin County, Cumberland County and Sagadahoc County.

[2005, c. 599, §1 (NEW) .]

7. Readjustment or reuse. "Readjustment" or "reuse" means an alternative use of the base facility from its use as a military installation.

[2005, c. 599, §1 (NEW) .]

8. Real or personal property. "Real or personal property" means those properties and assets transferred by the United States Government or the United States Navy after the closure of Brunswick Naval Air Station.

[2005, c. 599, §1 (NEW) .]

9. Reconstruct or reconstruction. "Reconstruct" or "reconstruction" means any activities undertaken to maintain the properties of Brunswick Naval Air Station, or any part of those properties, as a modern, safe and efficient facility and includes, but is not limited to, any rebuilding, redesign, improvement or enlargement of the real properties or environmental mitigation activities on base properties.

[2005, c. 599, §1 (NEW) .]

SECTION HISTORY

2005, c. 599, §1 (NEW) .

§13083-I. MIDCOAST REGIONAL REDEVELOPMENT AUTHORITY; POWERS; MEMBERSHIP; OBLIGATIONS

1. Powers. The authority is a public municipal corporation and may:

A. Sue and be sued; [2005, c. 599, §1 (NEW) .]

B. Adopt bylaws or rules consistent with this article for the governance of its affairs; [2005, c. 599, §1 (NEW) .]

C. Exercise all of the general powers of corporations under Title 13-C, section 302; [2005, c. 599, §1 (NEW) .]

D. Exercise the power of eminent domain; [2005, c. 599, §1 (NEW) .]

E. Provide for the public safety by imposing appropriate rules, regulating appropriate use of the base facilities and enforcing laws and rules as they apply to the use of the base facilities; [2005, c. 599, §1 (NEW) .]

F. Charge and collect fees, charges and rents for the use of the properties and other services and use the proceeds of those fees, charges and rents for the purposes provided in this article, both subject to and in accordance with any agreement with bondholders that may be made as provided in this article; [2005, c. 599, §1 (NEW) .]

G. Contract with the Federal Government or its instrumentalities or agencies, this State or its agencies, instrumentalities or municipalities, public bodies, private corporations, partnerships, associations and individuals to carry out the purposes of this article; [2005, c. 599, §1 (NEW) .]

H. Accept the cooperation of the Federal Government or its agencies in the construction, maintenance, reconstruction, operation and financing of the readjustment of the base and take necessary actions to utilize that aid and cooperation; [2005, c. 599, §1 (NEW) .]

I. Borrow money and apply for and accept advances, loans, grants, contributions and other forms of financial assistance from the Federal Government, the State, a municipality or other public body or from other sources, public or private, for the purposes of this article, give any security that is required and enter into and carry out contracts in connection with that financial assistance; [2005, c. 599, §1 (NEW) .]

J. Borrow money, make, issue and sell at public or private sale negotiable notes, bonds and other evidences of indebtedness or obligation of the authority for the purposes under this article and secure the payment of that obligation or any part of that obligation by pledge of all or any part of the operating revenues of the authority; [2005, c. 599, §1 (NEW) .]

K. Enter into loan or security agreements with one or more lending institutions, including, but not limited to, banks, insurance companies and institutions that administer pension funds, or trustees for those institutions for the issuance of bonds and exercise with respect to those loan or security agreements all of the powers delineated in this article for the issuance of bonds; [2005, c. 599, §1 (NEW) .]

L. Provide from operating revenues for the maintenance, construction or reconstruction of facilities to ensure the public safety for which the authority has not otherwise provided; [2005, c. 599, §1 (NEW) .]

M. Use operating revenues to provide payment of obligations, if any, due to the United States to implement the readjustment or reuse of the base facility; [2005, c. 599, §1 (NEW) .]

N. Adopt rules pursuant to the Maine Administrative Procedure Act; and [2005, c. 599, §1 (NEW) .]

O. Take all other lawful action necessary and incidental to these powers. [2005, c. 599, §1 (NEW) .]

[2005, c. 599, §1 (NEW) .]

2. Membership; appointment. The authority is governed by a board of trustees composed of 11 voting members appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over economic development matters and to confirmation by the Senate.

A. Trustees are appointed for 4-year terms, except that, for initial appointments, 3 trustees are appointed to one-year terms, 3 trustees are appointed to 2-year terms, 2 trustees are appointed to 3-year terms, 2 trustees are appointed to 4-year terms and the commissioner designated pursuant to paragraph D serves at the pleasure of the Governor. A vacancy must be filled in the same manner as the original appointment for the balance of the unexpired term. [2005, c. 599, §1 (NEW) .]

B. A trustee continues to hold office until a successor is appointed and qualified, but the term of the successor is not altered from the original expiration date of the holdover trustee's term. [2005, c. 599, §1 (NEW) .]

C. The Governor shall make 10 appointments, of which no fewer than 7 must be from candidates who are residents of Androscoggin County, Cumberland County and Sagadahoc County and are nominated by the primary impact communities. The Governor shall appoint members who reflect the diversity of interests represented by these communities. [2005, c. 599, §1 (NEW) .]

D. The Governor shall designate a commissioner of a department of State Government to be a voting, ex officio member of the board of trustees. [2005, c. 599, §1 (NEW) .]

E. A member appointed to the board of trustees may not hold an elected office in municipal, county or state government. [2005, c. 599, §1 (NEW) .]

[2005, c. 599, §1 (NEW) .]

3. Quorum. Six members constitute a quorum. Six affirmative votes are required for the board of trustees to take action.

[2005, c. 599, §1 (NEW) .]

4. Liability. The liability of the authority is governed by the Maine Tort Claims Act. A member of the board of trustees or an employee of the authority is not subject to any personal liability for having acted in the service of the member's or employee's duty as a member of the board or an employee of the authority within the course and scope of membership or employment to carry out a power or duty under this article. The authority shall indemnify a member of the board or an employee of the authority against expenses actually and necessarily incurred in connection with the defense of an action or proceeding in which a member of the board or an employee is made a party by reason of past or present association with the authority.

[2009, c. 641, §2 (AMD) .]

5. Expenses. A trustee is not entitled to receive compensation for services to the authority but is entitled to receive reimbursement for necessary expenditures, including travel expenses, incurred in carrying out those services.

[2005, c. 599, §1 (NEW) .]

6. Officers; employees. The board of trustees shall elect a chair and vice-chair from among its members. The authority may employ an executive director, technical experts and other agents and employees, permanent and temporary, that it requires and may determine their qualifications, duties and compensation. For required legal services, the authority may employ or retain its own counsel and legal staff.

[2005, c. 599, §1 (NEW) .]

SECTION HISTORY

2005, c. 599, §1 (NEW) . 2009, c. 641, §2 (AMD) .

§13083-J. USE OF OPERATING REVENUES

1. Principal use of revenue. Operating revenue must be used principally to reinvest in the properties held by the authority.

[2005, c. 599, §1 (NEW) .]

2. Permitted liability limited. All expenses incurred in carrying out this article must be paid solely from funds provided under the authority of this article, and liability or obligation may not be incurred under this article beyond the extent to which money has been provided under the authority of this article.

[2005, c. 599, §1 (NEW) .]

3. Equal opportunity employers. Contractors and subcontractors on authority construction and reconstruction projects must be equal opportunity employers and, for contracts in excess of \$250,000, shall pursue in good faith affirmative action programs as defined in section 782. The authority may by rule provide for the enforcement of this requirement.

[2005, c. 599, §1 (NEW) .]

SECTION HISTORY

2005, c. 599, §1 (NEW) .

§13083-K. PROPERTY OF AUTHORITY

The authority shall hold and acquire property as follows. [2005, c. 599, §1 (NEW) .]

1. Lease or sale. Properties may be leased or sold to accomplish the readjustment or reuse of the base facilities as determined appropriate by the authority. Resources acquired as a result of the lease or sale of these properties become operating revenues or assets of the authority.

[2005, c. 599, §1 (NEW) .]

2. Entry upon lands. The authority and its authorized agents and employees may enter upon lands, waters and premises in the State for the purpose of making surveys, soundings, drillings and examinations the authority determines necessary or convenient for the purposes of this article. The entry is not a trespass, but the authority is liable for damages its entry creates.

[2005, c. 599, §1 (NEW) .]

3. Authority for transfers of interest in land to the authority. Notwithstanding any contrary provisions of law, upon the authority's request, on reasonable and fair terms and conditions and without the necessity for advertisement, order of court or action or formality other than the regular and formal action of the authorities concerned, counties, municipalities, public agencies or instrumentalities of the State, public service corporations and special districts may lease, lend, grant or convey to the authority real or personal property or rights in that property that may be necessary or convenient for the effectuation of the authorized purposes of the authority, including real and personal property or rights in that property already devoted to public use. As used in this subsection, the term "public service corporation" includes a public utility as defined in Title 35-A, section 102, subsection 13 and a corporation referred to in Title 13-C.

[2005, c. 599, §1 (NEW) .]

4. Enforcement on ways under jurisdiction of the authority. A law enforcement officer may enforce the traffic laws under Title 29-A on a way under the jurisdiction of the authority.

[2013, c. 48, §2 (NEW) .]

SECTION HISTORY

2005, c. 599, §1 (NEW). 2013, c. 48, §2 (AMD) .

§13083-L. SPECIAL UTILITY DISTRICTS

The authority may form special utility districts and provide municipal utility services within its jurisdiction. The board of trustees of the authority has the authority of a municipal legislative body for these purposes. [2005, c. 599, §1 (NEW) .]

1. Sewer services. The authority may provide sewer services as a sanitary district under Title 38, chapter 11, subchapters 3 and 4. The authority may establish a board of trustees for the sanitary district and appoint the members of the board of trustees or may act as the board of trustees of the district.

[2005, c. 599, §1 (NEW) .]

2. Solid waste disposal. The authority may provide solid waste disposal services as a refuse disposal district under Title 38, chapter 17. The authority may establish a board of trustees for the refuse disposal district and appoint the members of the board of trustees or may act as the board of trustees of the district.

[2005, c. 599, §1 (NEW) .]

3. Water. The authority may provide water as a water district under Title 35-A, Part 6. The authority may establish a board of trustees for the water district and appoint the members of the board of trustees or may act as the board of trustees of the district.

[2005, c. 599, §1 (NEW) .]

4. Revenue-producing services. The authority has all the powers of a municipality to provide services under Title 30-A, chapter 213.

[2005, c. 599, §1 (NEW) .]

5. Airport; Brunswick Naval Air Station Fund established. The authority has all the powers of a municipality to operate as an airport authority under Title 30-A, chapter 213 for use in connection with a public airport, heliport or other location for the landing or taking off of aircraft. To support this operation, there is established a nonlapsing fund to be known as the Brunswick Naval Air Station Airport Fund, referred to in this section as "the fund," for the purpose of receiving funds from the State and gifts, grants, devises, bequests, trusts or security documents. The State shall credit to the fund any appropriation made to the authority in each fiscal year.

A. The fund must be used to:

- (1) Purchase, lease, acquire, own, improve, use, sell, convey, transfer or otherwise deal in and with airport property, an airport project or any interest in the airport property or airport project, whether tangible or intangible, as otherwise authorized under this article;

- (2) Pay the costs of operating, maintaining, improving and repairing all airport property and airport projects of the authority;
- (3) Pay the costs of administering and operating the authority, including, but not limited to, all wages, salaries, benefits and other expenses authorized by the board of trustees or the executive director;
- (4) Pay the principal and premium, if any, and the interest on the outstanding bonds of the authority related to airport property or airport projects as the same become due and payable;
- (5) Create and maintain reserves required or provided for in any resolution authorizing or any security document securing such bonds of the authority related to airport property or airport projects;
- (6) Create and maintain a capital improvement fund for airport property and airport projects to be established by the board;
- (7) Pay all taxes owed by the authority related to airport property or airport projects; and
- (8) Pay all expenses incident to the management and operation of the authority operating as an airport authority as are consistent with its statutory purpose and as the board may from time to time determine. [2009, c. 641, §3 (NEW) .]

B. The fund constitutes a continuing appropriation for the benefit of the authority. Any amount remaining in the fund at the close of any fiscal year is carried over and credited to the fund for the succeeding year. [2009, c. 641, §3 (NEW) .]

C. Money in the fund must be paid to the authority on manifests approved by the Governor and Legislature in the same manner as other state claims are paid. [2009, c. 641, §3 (NEW) .]

D. The revenues received and due to the authority from all other sources, except by way of state appropriation, from whatever source derived, must be retained by the authority and must be used in such a manner as the board of trustees may determine consistent with the provisions of this section or as is otherwise provided by law or by the terms and conditions incident to any gift, grant, devise, bequest, trust or security document. [2009, c. 641, §3 (NEW) .]

[2009, c. 641, §3 (NEW) .]

SECTION HISTORY

2005, c. 599, §1 (NEW). 2009, c. 641, §3 (AMD) .

§13083-M. OTHER MUNICIPAL POWERS

1. Traffic ordinances. The authority has the power to enact traffic ordinances and regulate the operation of motor vehicles under Title 30-A, section 3009 to the extent that power is not inconsistent with other validly enacted municipal ordinances.

[2005, c. 599, §1 (NEW) .]

2. Operating expenses. The authority has all the powers of a municipality to raise and appropriate money under Title 30-A, sections 5722 and 5723.

[2005, c. 599, §1 (NEW) .]

3. Zoning. The authority may not adopt zoning or land-use ordinances but may coordinate zoning and land-use regulation with interested primary impact communities.

[2005, c. 599, §1 (NEW) .]

4. Highway maintenance. The authority may maintain, repair, plow and control public ways as a municipality under Title 23, Part 3. The authority shall consult and coordinate with the appropriate primary impact community in appointing a road commissioner.

[2005, c. 599, §1 (NEW) .]

SECTION HISTORY

2005, c. 599, §1 (NEW) .

§13083-N. BONDS

1. Hearing required. The authority may issue bonds to finance its activities only after giving notice of the proposed issuance and its terms at least twice in a newspaper of general circulation in the appropriate counties and holding a duly advertised public hearing on the issuance.

[2005, c. 599, §1 (NEW) .]

2. Authority. The authority may issue bonds from time to time in its discretion to finance the undertaking of an authorized activity under this article, including but not limited to the payment of principal and interest upon advances for surveys and plans, and may issue refunding bonds for the payment or retirement of bonds previously issued.

A. The principal and interest of bonds must be made payable solely from the income, proceeds, revenues and funds of the authority derived from or held for activities under this article. Payment of the principal and interest of bonds may be further secured by a pledge of a loan, grant or contribution from the Federal Government or other source in aid of activities of the authority under this article and by a mortgage of an urban activity or a project or part of a project, title to which is in the authority. [2005, c. 599, §1 (NEW) .]

B. Bonds issued under this section do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and are not subject to other laws or charters relating to the authorization, issuance or sale of bonds. Bonds issued under this article are declared to be issued for an essential public and governmental purpose and, together with interest on and income from the bonds, are exempt from all taxes. [2005, c. 599, §1 (NEW) .]

C. Bonds may not be issued by the authority until the authority has received a certificate of approval from the Finance Authority of Maine authorizing issuance of the bonds. Before issuing a certificate of approval under this section, the Finance Authority of Maine must determine that there is a reasonable likelihood that the income, proceeds, revenues and funds of the authority derived from or held for activities under this article or otherwise pledged to payment of the bonds will be sufficient to pay the principal, the interest and all other amounts that may at any time become due and payable under the bonds. In making this determination, the Finance Authority of Maine shall consider the authority's analysis of the proposed bond issue and the revenues to make payments on the bonds and may require such information, projections, studies and independent analyses as it considers necessary or desirable and may charge the authority reasonable fees and expenses. The issuance by the Finance Authority of Maine of a certificate of approval under this section does not constitute an endorsement of the bonds or the projects or purposes for which those bonds are issued and neither the authority nor any other person or entity, including, without limitation, any holders of bonds of the authority, have any cause of action against the Finance Authority of Maine with respect to any such certificate of approval. The Finance Authority of Maine may require that it be indemnified, defended and held harmless by the authority for any liability or cause of action arising out of or with respect to the bonds. [2005, c. 599, §1 (NEW) .]

[2005, c. 599, §1 (NEW) .]

3. General characteristics. Bonds authorized under this section may be issued in one or more series. The resolution, trust indenture or mortgage under which the bonds are issued may include the following:

A. The date or dates borne by the bonds; [2005, c. 599, §1 (NEW) .]

B. Whether the bonds are payable upon demand or mature at a certain time or times; [2005, c. 599, §1 (NEW) .]

C. The interest rate or rates of the bonds; [2005, c. 599, §1 (NEW) .]

D. The denomination or denominations of the bonds; [2005, c. 599, §1 (NEW) .]

E. The form of the bonds, whether coupon or registered; [2005, c. 599, §1 (NEW) .]

F. The conversion or registration privileges carried by the bonds; [2005, c. 599, §1 (NEW) .]

G. The rank or priority of the bonds; [2005, c. 599, §1 (NEW) .]

H. The manner of execution of the bonds; [2005, c. 599, §1 (NEW) .]

I. The medium and place or places of payment; [2005, c. 599, §1 (NEW) .]

J. The terms of redemption of the bonds, with or without premium; [2005, c. 599, §1 (NEW) .]

K. The manner secured; and [2005, c. 599, §1 (NEW) .]

L. Any other characteristics of the bonds. [2005, c. 599, §1 (NEW) .]

[2005, c. 599, §1 (NEW) .]

4. Price sold. The bonds may be:

A. [2009, c. 641, §4 (RP) .]

B. Exchanged for other bonds on the basis of par; [2009, c. 641, §4 (AMD) .]

C. Sold to the Federal Government at private sale at not less than par. If less than all of the authorized principal amount of the bonds is sold to the Federal Government, the balance may be sold at private sale at not less than par at an interest cost to the municipality that does not exceed the interest cost to the municipality of the portion of the bonds sold to the Federal Government; or [2009, c. 641, §4 (AMD) .]

D. Sold to a person on such terms as the authority may negotiate. [2009, c. 641, §4 (NEW) .]

[2009, c. 641, §4 (AMD) .]

5. Signatures of outgoing officers; negotiability. If an official of the authority whose signature appears on a bond or coupon issued under this article ceases to be an official before the bond is delivered, the signature is nevertheless valid for all purposes as if the official had remained in office until the delivery. Notwithstanding contrary provisions of law, bonds issued under this article are fully negotiable.

[2005, c. 599, §1 (NEW) .]

6. Bond recitation; conclusive presumptions. In actions or proceedings involving the validity or enforceability of a bond issued under this article or the security for that bond, a bond reciting in substance that it has been issued by the authority in connection with an activity is conclusively deemed to have been issued for that purpose and the activity is conclusively deemed to have been planned, located and carried out in accordance with this article.

[2005, c. 599, §1 (NEW) .]

7. No personal liability; not debt of State or municipality. Neither the trustees of the authority nor the person executing the bonds is liable personally on the bonds by reason of the issuance of the bonds. The bonds and other obligations of the authority must have stated on their face that they are not a debt of the State and that the State is not liable on the bonds. The bonds or obligations may not be payable out of funds or properties other than those of the authority acquired for the purposes of this article.

[2005, c. 599, §1 (NEW) .]

8. Bonds as legal investments. Public officers, municipal corporations, political subdivisions and public bodies; banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business; insurance companies, insurance associations and other persons carrying on an insurance business; and executors, administrators, curators, trustees and other fiduciaries may legally invest sinking funds, money or other funds belonging to them or within their control in bonds or other obligations issued by the authority under this article. These bonds or other obligations are authorized security for all public deposits. It is the purpose of this section to authorize persons, political subdivisions and officers, public or private, to use funds owned or controlled by them for the purchase of these bonds or other obligations. This section does not relieve a person of any duty or of exercising reasonable care in selecting securities.

[2005, c. 599, §1 (NEW) .]

9. Investment of funds; redemption of bonds. The authority may:

A. Invest, in property or securities in which savings banks may legally invest funds subject to their control, funds held in reserves, sinking funds or funds not required for immediate disbursement; and [2005, c. 599, §1 (NEW) .]

B. Cancel its bonds by redeeming them at the redemption price established in the bonds or by purchasing them at less than redemption price. [2005, c. 599, §1 (NEW) .]

[2005, c. 599, §1 (NEW) .]

SECTION HISTORY

2005, c. 599, §1 (NEW) . 2009, c. 641, §4 (AMD) .

§13083-O. INTEREST OF PUBLIC OFFICIALS, TRUSTEES OR EMPLOYEES

1. Acquisition of interest. A public official, trustee or employee of the authority may not acquire or hold a direct or an indirect financial or personal interest in:

A. An authority activity; [2005, c. 599, §1 (NEW) .]

B. Property included or planned to be included in the base area; or [2005, c. 599, §1 (NEW) .]

C. A contract or proposed contract in connection with an authority activity. [2005, c. 599, §1 (NEW) .]

When an acquisition is involuntary, the interest acquired must be disclosed immediately in writing to the board of trustees of the authority, and the disclosure must be entered in the board's minutes.

[2005, c. 599, §1 (NEW) .]

2. Present or past interest in property. If a public official, trustee or employee of the authority presently owns or controls, or owned or controlled within the preceding 2 years, a direct or an indirect interest in property known to be included or planned to be included in an authority activity, that public official, trustee or employee must disclose this fact immediately in writing to the authority and the disclosure must be entered in the authority's minutes.

[2005, c. 599, §1 (NEW) .]

3. Recusal. The public official, trustee or employee of the authority with an interest may not participate in an action by the authority affecting that property.

[2005, c. 599, §1 (NEW) .]

4. Violation. A violation of this section is a Class E crime.

[2005, c. 599, §1 (NEW) .]

SECTION HISTORY

2005, c. 599, §1 (NEW) .

§13083-P. EXEMPTION FROM EXECUTION

1. Property exempt from execution. The property, including funds, of the authority is exempt from levy and sale by virtue of an execution. An execution or other judicial process may not be issued against the authority's property, and a judgment against the authority may not be a charge or lien upon its property.

[2005, c. 599, §1 (NEW) .]

2. Construction; limitation of application. This section does not:

A. Prohibit the authority from making payments in lieu of taxes to the municipality; or [2005, c. 599, §1 (NEW) .]

B. Apply to or limit the right of an obligee to foreclose or otherwise enforce a mortgage of the authority or to pursue remedies for the enforcement of a pledge or lien given by the authority on its rents, fees, grants, revenues or other sources pledged by the authority to the payment of its bonds. [2009, c. 641, §5 (AMD) .]

[2009, c. 641, §5 (AMD) .]

SECTION HISTORY

2005, c. 599, §1 (NEW). 2009, c. 641, §5 (AMD) .

§13083-Q. DESIGNATION AS PORT OF ENTRY, INTERNATIONAL AIRPORT, FOREIGN TRADE ZONE AND FREE PORT AREA

1. Port of entry. The authority may apply to the Secretary of the Treasury of the United States for the purpose of having Brunswick Naval Air Station or a portion of the base designated, established or constituted as a port of entry or an international airport pursuant to the federal Customs Reorganization Act, 19 United States Code, Section 1, as amended, and Section 58b, as amended, and regulations of the United States Customs Service, including 19 Code of Federal Regulations, Sections 101.0 and 122.1, as amended.

[2005, c. 599, §1 (NEW) .]

2. Foreign trade zone. The authority may apply to the Secretary of Commerce of the United States for the purpose of establishing, operating and maintaining foreign trade zones at Brunswick Naval Air Station pursuant to the federal Foreign Trade Zones Act, 19 United States Code, Section 81a-81u, as amended, providing for the establishment, operation and maintenance of foreign trade zones in or adjacent to ports of entry of the United States for expediting and encouraging foreign commerce and for other purposes.

A. The authority may select and describe the location of the foreign trade zone, make rules and take other actions concerning the operation, maintenance and policing of the zone as necessary to comply with the federal Foreign Trade Zones Act and the regulations promulgated under that Act. [2005, c. 599, §1 (NEW) .]

B. The authority may lease or may erect, maintain and operate structures, buildings or enclosures necessary for the establishment and operation of foreign trade zones. [2005, c. 599, §1 (NEW) .]

[2005, c. 599, §1 (NEW) .]

3. Other tax-free provisions. The authority may establish a free port area at Brunswick Naval Air Station in which personal property in transit is exempt from the provisions of the stock-in-trade tax and other taxes and customs normally levied in a port of entry. For the purposes of this section, personal property in transit through the free port area established by the authority includes goods, wares and merchandise that:

A. Are moving in interstate or international commerce through or over the free port areas established; [2005, c. 599, §1 (NEW) .]

B. Are consigned from outside the State to a public or private warehouse within the State, whether that consignment is specified before or after transportation; or [2005, c. 599, §1 (NEW) .]

C. Do not lose their tax-exempt status because, while in a warehouse, they are assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged. The warehouse in which the goods, wares and merchandise are stored may not be owned in whole or in part by either the consignee or the consignor. The tax-exemption granted may be liberally construed to effect the purposes of this article. [2005, c. 599, §1 (NEW) .]

[2005, c. 599, §1 (NEW) .]

SECTION HISTORY

2005, c. 599, §1 (NEW) .

§13083-R. TERMINATION OF THE AUTHORITY

The authority is not dissolved until: [2005, c. 599, §1 (NEW) .]

1. Legislature provides for termination. It is terminated by the Legislature; and

[2005, c. 599, §1 (NEW) .]

2. Payment of bonds, premiums and interest. The bonds, premium, if any, and interest have been paid or a sufficient amount for the payment of the bonds and interest to maturity or a prior redemption date have been irrevocably set aside in trust for the benefit of the bondholders.

[2005, c. 599, §1 (NEW) .]

SECTION HISTORY

2005, c. 599, §1 (NEW) .

§13083-S. ANNUAL REPORT

1. Annual financial report. The authority shall submit annually to the Governor, the Executive Director of the Legislative Council and the joint standing committee of the Legislature having jurisdiction over housing and economic development matters, not later than 120 days after the close of the authority's fiscal year, a complete report on the activities of the authority. The report may also be provided to any other member of the Legislature and to any other person. The report must include all of the following for the previous year:

- A. A description of the authority's operations; [2005, c. 599, §1 (NEW) .]
- B. An accounting of the authority's receipts and expenditures, assets and liabilities at the end of its fiscal year; [2005, c. 599, §1 (NEW) .]
- C. A listing of all property transactions pursuant to section 13083-K; [2005, c. 599, §1 (NEW) .]
- D. An accounting of all activities of any special utility district formed under section 13083-L; [2005, c. 599, §1 (NEW) .]
- E. A listing of any property acquired by eminent domain under section 13083-I; [2005, c. 599, §1 (NEW) .]
- F. A listing of any bonds issued during the fiscal year under section 13083-I; [2005, c. 599, §1 (NEW) .]
- G. A statement of the authority's proposed and projected activities for the ensuing year; [2009, c. 641, §6 (AMD) .]
- H. Recommendations regarding further actions that may be suitable for achieving the purposes of this article; and [2009, c. 641, §7 (AMD) .]
- I. A description of the authority's progress toward achieving the goals set forth in section 13083-G. [2009, c. 641, §8 (NEW) .]

[2009, c. 641, §§6-8 (AMD) .]

SECTION HISTORY

2005, c. 599, §1 (NEW) . 2009, c. 641, §§6-8 (AMD) .

§13083-S-1. BRUNSWICK NAVAL AIR STATION JOB INCREMENT FINANCING FUND

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

- A. "Affiliated business" means one of 2 businesses exhibiting either of the following relationships:
 - (1) One business owns 50% or more of the stock of the other business or owns a controlling interest in the other; or
 - (2) Fifty percent of the stock of each business or a controlling interest in each business is directly or indirectly owned by a common owner or owners. [2009, c. 641, §9 (NEW) .]
- B. "Assessor" means the State Tax Assessor. [2009, c. 641, §9 (NEW) .]
- C. "Base level of employment" means either the total employment of an employer as of the March 31st, June 30th, September 30th and December 31st of the calendar year immediately preceding the date the employer begins operations

at the base area divided by 4 or its average employment during the base period, whichever is greater. [2009, c. 641, §9 (NEW).]

D. "Base period" means the 3 calendar years prior to the year in which an employer begins operations at the base area. [2009, c. 641, §9 (NEW).]

E. "College" means Southern Maine Community College in the Maine Community College System. [2009, c. 641, §9 (NEW).]

F. "Commissioner" means the Commissioner of Economic and Community Development. [2009, c. 641, §9 (NEW).]

G. "Fund" means the Brunswick Naval Air Station Job Increment Financing Fund established pursuant to subsection 2. [2009, c. 641, §9 (NEW).]

H. "Job tax increment" means that level of state income tax withholding attributed to any employees employed within the base area above the base level of employment for an employer in the base area or its average employment during the base period. "Job tax increment" does not include withholding from employees or positions shifted by an employer as calculated generally pursuant to Title 36, chapter 917. The shifting restriction must apply to all employers in the base area. [2009, c. 641, §9 (NEW).]

[2009, c. 641, §9 (NEW) .]

2. Fund established. The Brunswick Naval Air Station Job Increment Financing Fund is established to receive job tax increment transfers from job creation in the base area. The fund must receive annually from the State the amount calculated under subsection 5.

[2009, c. 641, §9 (NEW) .]

3. Limitations. The fund is subject to the following limitations.

A. Subject to the provisions of paragraph E, payments from the fund allocated to the authority must be used solely to fund the costs of municipal services, including, but not limited to, water, sewer, electricity, telecommunications, fire protection, police protection, sanitation services and the maintenance of buildings, facilities, grounds and roads in the base area. [2009, c. 641, §9 (NEW).]

B. Subject to the provisions of paragraph E, payments allocated to the college must be used solely to fund the costs of higher education services, including, but not limited to, faculty and staff salaries and instruction, operations, equipment, maintenance and financing costs, including, but not limited to, closing costs, issuance costs and interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity. [2009, c. 641, §9 (NEW).]

C. To the extent that revenues received by the fund are not expended for current costs under paragraphs A and B, the fund must retain the revenues to defray future costs under those paragraphs. [2009, c. 641, §9 (NEW).]

D. State income tax withholding eligible for reimbursement to a qualified business pursuant to Title 36, chapter 917 or to a qualified pine tree development zone business under Title 30-A, chapter 206 is not eligible for use in the calculation of a payment to the fund under subsections 4 and 5. State income tax withholding under Title 36, chapter 919, or any other tax credit or reimbursement program based on state income tax withholding, is not eligible for use in calculation of a payment to the fund under subsections 4 and 5. [2009, c. 641, §9 (NEW).]

E. Payments made to the fund must be allocated as follows:

- (1) For payments transferred to the fund in 2011 and 2012, 100% must be allocated to the college;
- (2) For payments made to the fund in 2013, 75% must be allocated to the college and 25% must be allocated to the authority; and
- (3) For payments made to the fund in 2014 and after, 50% must be allocated to the college and 50% must be allocated to the authority. [2009, c. 641, §9 (NEW).]

F. Payments to the fund are not allowed for calendar years beginning on or after January 1, 2031. If at least 5,000 net new jobs are created in the base area prior to 2031, the services funded under paragraphs A and B must be reviewed by the joint standing committee of the Legislature having jurisdiction over economic development matters in order to determine whether continuance of the fund is necessary. [2009, c. 641, §9 (NEW).]

[2009, c. 641, §9 (NEW) .]

4. Certification by authority. By February 15th of each year, beginning in 2011, the authority shall provide a report identifying each employer located at the base area to the commissioner. The commissioner shall certify annually to the assessor on or before June 30th of each year, beginning in 2011, the following information:

A. Employment, payroll and state withholding data necessary to calculate the base level of employment; [2009, c. 641, §9 (NEW) .]

B. The total number of employees added during the previous year within the base area above the base level of employment, including additional associated payroll and withholding data necessary to calculate the job tax increment and establish the appropriate payment to the fund; [2009, c. 641, §9 (NEW) .]

C. A listing of all employers within the base area that pay withholding taxes, the locations of those employers and the number of employees at each location; [2009, c. 641, §9 (NEW) .]

D. A listing of all affiliated businesses, data regarding current employment, payroll and Maine income tax withholding for each affiliated business within the base area; and [2009, c. 641, §9 (NEW) .]

E. Any information required by the assessor to determine the employment tax increment revenues pursuant to Title 36, chapter 917. [2009, c. 641, §9 (NEW) .]

[2009, c. 641, §9 (NEW) .]

5. Procedure for payment of revenue to the fund. On or before July 15th of each year, the assessor shall review the information required by subsection 4 and calculate the job tax increment for the preceding calendar year. The assessor shall also calculate the employment tax increment in the base area for reimbursement to qualified businesses and qualified Pine Tree Development Zone businesses pursuant to Title 36, chapter 917. On or before July 15th of each year, the assessor shall certify to the State Controller the total remaining job tax increment after reimbursements have been made to qualified businesses and qualified Pine Tree Development Zone businesses pursuant to Title 36, chapter 917. On or before July 31st of each year, the State Controller shall transfer 50% of the remaining job tax increment to the state job tax increment contingent account established, maintained and administered by the State Controller from General Fund undedicated revenue within the withholding tax category. On or before July 31st of each year, the State Controller shall deposit this revenue into the fund and distribute the payments pursuant to subsection 3.

[2009, c. 641, §9 (NEW) .]

6. Administration. The Commissioner of Administrative and Financial Services shall administer the fund and may adopt rules pursuant to the Maine Administrative Procedure Act for implementation of the fund. Rules adopted pursuant to this subsection are routine technical rules pursuant to chapter 375, subchapter 2-A.

[2009, c. 641, §9 (NEW) .]

SECTION HISTORY

2009, c. 641, §9 (NEW) .